IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

WP(C).No. 17023 of 2006(B)

PETITIONER:

APAR INDUSTRIES LTD.,
DHARMSINH DESAI INDUSTRIAL PARK,
DHARMSINH DESAI MARG, CHENNAI ROAD,
VADODARA, REPRESENTED BY S.K.AGARWAL,
ASSISTANT GENERAL MANAGER (SA & CC).

BY ADV. SRI.SAJEEV KUMAR K.GOPAL
SRI.BINOY VASUDEVAN

RESPONDENTS:

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1. KERALA STATE ELECTRICITY BOARD
REPRESENTED BY ITS SECRETARY, VAIDYUTHI BHAVAN,
THIRUVANANTHAPURAM.

2. THE CHAIRMAN, KERALA STATE ELECTRICITY
BOARD, VAIDYUTHI BHAVAN, THIRUVANANTHAPURAM.

3. THE CHIEF ENGINEER, T.C. & M.,
KERALA STATE ELECTRICITY BOARD,
VAIDYUTHI BHAVAN, THIRUVANANTHAPURAM.

BY ADV. SHRI.C.K.GOVINDAN, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 17023/2006

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE COMMUNICATION NO. TCM/L/103/99-2000/APAR 5175 DATED 19/02/2000 FROM THE 3RD RESPONDENT.

P2 : COPY OF THE COMMUNICATION TCM/L/103/99-2000/APAR 5722 DATED 27/03/2000 FROM THE 3RD RESPONDENT.

P3 : COPY OF THE REPRESENTATION DATED 19/11/2004 FROM THE PETITIONER TO THE 3RD RESPONDENT.

P4 : COPY OF THE REPRESENTATION DATED 23/04/2005 FROM THE PETITIONER TO THE MEMBER TRANSMISSION OF THE 1ST RESPONDENT.

P5 : COPY OF THE REPRESENTATION DATED 22/09/2005 FROM THE PETITIOENR TO THE MEMBER TRANSMISSION OF THE 1ST RESPONDENT.

P6 : COPY OF ORDER VIDE TCM/L/103/99/00/APAR/5985 DATED 02/03/2006 TO THE 3RD RESPONDENT.

P7 : COPY OF THE JUDGMENT IN WP(C) No. 32589/03 DATED 17/10/2003.

RESPONDENT'S EXHIBITS

R1(a) : COPY OF THE PURCHASE ORDER DATED 19/02/2000.

R1(b) : COPY OF THE AGREEMENT DATED 26/06/2000.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 17023 of 2006

Dated, this the 14th day of August, 2007

J U D G M E N T

Petitioner's case is that his claim under the contract for price variation and waiver of liquidated damages is not properly considered by the Deputy Chief Engineer, who considered petitioner's representation. When a dispute is raised under the contract, normal remedy is to settle through arbitration proceedings if it is so provided, or otherwise through civil suit. However, I feel, litigation should be avoided if the same is possible. In the circumstances, I direct KSEB to consider petitioner's case in their Board Meeting. Petitioner can file a representation before the Secretary of the KSEB, who will place it before the Board for their decision. The Board will consider petitioner's representation after hearing petitioner and decision will be taken within three months from the date of production of a copy of this judgment along with the representation.

This writ petition is disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg